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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/588,218

08/02/2006

Shigeru Ogino

128872

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25944 7590 07/13/2009

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EXAMINER

BEST, ZACHARY P

ART UNIT

PAPER NUMBER

1795

MAIL DATE

DELIVERY MODE

07/13/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/588,218	<b>Applicant(s)</b> OGINO ET AL.	
	<b>Examiner</b> Zachary Best	<b>Art Unit</b> 1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 10-16 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**FUEL CELL SYSTEM FOR PREVENTING HYDROGEN PERMEABLE  
METAL LAYER DEGRADATION**

Examiner: Z. Best    S.N. 10/588,218    Art Unit: 1795

**DETAILED ACTION**

1.     Applicant's request for reconsideration filed March 19, 2009 was received. Claims 1-16 are currently pending, with Claims 10-16 withdrawn from consideration.
2.     The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Specification***

3.     The objection to the specification is withdrawn because the title was amended.

***Claim Rejections - 35 USC § 112***

4.     The rejections under 35 U.S.C. 112, second paragraph, of Claims 1-9 as being indefinite are withdrawn because Applicant's argument was persuasive.

***Claim Rejections - 35 USC § 102***

5.     The rejections under 35 U.S.C. 102(b) of Claims 1-2, 5, and 9 as being anticipated by Makihara et al. are withdrawn because Applicant's argument was persuasive.

***Claim Rejections - 35 USC § 102 / 103***

6. The rejections under 35 U.S.C. 102(b), or in the alternative under 35 U.S.C. 103(a) of Claims 6 and 8 as being unpatentable over Makihara et al. are withdrawn because Applicant's argument was persuasive.

***Claim Rejections - 35 USC § 103***

7. The rejections under 35 U.S.C. 103(a) of Claims 3-4 as being unpatentable over Makihara et al. in view of Aoyama et al., and Claim 7 as being unpatentable over Makihara et al. in view of Standke et al. are withdrawn because Applicant's argument was persuasive.

***Allowable Subject Matter***

8. Claims 1-9 are allowed. The following is an examiner's statement of reasons for allowance: the prior art does not teach a temperature parameter acquisition section configured to acquire a parameter relating to a temperature of the hydrogen permeable metal layer; and a fuel cell controller for controlling an operation state of the fuel cell system, wherein the fuel cell controller has a degradation prevention mode for causing the hydrogen permeable metal layer degradation prevention section to operate when the temperature of the hydrogen permeable metal layer represented by the temperature parameter deviates from a predetermined temperature range as recited in independent Claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany

the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

This application is in condition for allowance except for the presence of Claims 10-16 directed to an invention non-elected with traverse in the reply filed on November 5, 2008. Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue. Extensions of time under 37 CFR 1.136(a) will not be permitted since this application will be passed to issue.

The prosecution of this case is closed except for consideration of the above matter.

### ***Conclusion***

This application is in condition for allowance except for the following formal matters:

The aforementioned presence of Claims 10-16 directed to an invention non-elected with traverse in the reply filed on November 5, 2008.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachary Best whose telephone number is (571) 270-3963. The examiner can normally be reached on Monday to Thursday, 7:30 - 5:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dah-Wei Yuan can be reached on (571) 272-1295. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Zpb

/PATRICK RYAN/  
Supervisory Patent Examiner, Art Unit 1795